IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 128 (S/B) of 2006

Pushkar Ram Lohiya S/o Late Sh. B.R. Lohiya,
Serving as Block Development Officer, Block Pati,
District Champawat

... Petitioner

Versus

1. Chief Development Officer, Champawat
2. Sri M.S. Kutiyal, Chief Development Officer, Champawat
3. Sri Harish Ram Arya, Assistant Development Officer (ISB) Blok-Pati, District Champawat

....Respondents

Hon'ble P.C. Verma, J.
Hon'ble B.S. Verma, J.

Dated: May 25, 2006

By means of this writ petition, the petitioner has prayed for writ of certiorari quashing the impugned order dated 3.4.2006 (Annexure No.3 to the writ petition) passed by Respondent No. 1.

Briefly stated facts as narrated by the petitioner are that petitioner is a member of Scheduled Caste community who suffers from 45 percent physical disability and his date of birth is 5.7.1948. The petitioner was promoted as Joint Block Development Officer vide order dated 24.5.2002 passed by Commissioner, Rural Development Uttaranchal and by a subsequent order dated 20.10.2004, the petitioner was promoted as Block Development Officer. It has been alleged by the petitioner that Respondent No.2 who came on transfer as Chief Development officer, Champawat in the first week of December, 2005 was biased against the petitioner since very beginning without any reasonable cause. On 6.1.2006, a letter issued by Respondent No.1

was served in the office of Block Development Officer on 9.1.2006 by which the petitioner was informed that Respondent No.1 shall inspect the block office on 7.1.2006 and petitioner was asked to keep the inspection book ready. Since petitioner had no idea that Respondent No.2 is coming for inspection on 7.1.2006 as such he could not prepare the inspection book. The Respondent No.2 when visited the Block-Pati he became furious against the petitioner and warned him of dire consequences for showing disrespect. The answer given by the petitioner could not pacify Respondent No. 2 and who while leaving again warned the petitioner that he will not continue on a functional post. On 3.4.2006, the Respondent NO.2 ultimately passed an order whereby the petitioner has been attached in District Rural Development Agency (DRDA), Champawat with immediate effect and Respondent No.3 has been given the charge of Block Development Officer, Pati by the said order. Feeling aggrieved, the petitioner has come up in this writ petition.

We have heard learned counsel for the parties and perused the entire evidence available on record.

The petitioner has been attached in District Rural Development Agency (D.R.D.A.) which is society. It has categorically been stated in the counter affidavit that there is no post of Block Development Officer in D.R.D.A. and more so if the petitioner is to be sent on posting from the Government to the instrumentality of the State, he can be sent only on deputation. It has also been stated in the counter affidavit that there was some enquiry pending against the petitioner, therefore, he has been attached with D.R.D.A. In the Rejoinder Affidavit, it has been stated that in District Champawat, there are four blocks in District Champawat and there are four Block Development Officers serving in the District and

the chargesheets have been served to all the four Block Development Officers posted in District and none of them were attached like the petitioner by the Chief Development Officer, Champawat and only the petitioner has been singled out for attachment and others are holding the posts of Block Development Officers in the same District.

Thus, the attachment order is stigmatic one and is an outcome of malice of Chief Development Officer- Respondent No.2 which has been arrayed by name as respondent. It is pertinent to mention here that the Chief Development Officer was not competent to transfer the petitioner as the Commissioner, Rural Development is only competent to transfer the Block Development Officers.

The fact that other three persons have been allowed to remain as Block Development Officers and the petitioner has been picked out for attachment and by the impugned order the petitioner had been attached itself shows the nexus of the malifide alleged and the action taken by the impugned order. Thus, the impugned order dated 3.4.2006 is an outcome of malice of Respondent No.2, which cannot be sustained in the eye of law.

In view of the above, the attachment order dated 3.4.2006 is hereby quashed. However, it will be open for the Government – State of Uttaranchal to pass a fresh order posting the petitioner elsewhere where the Government thinks it to be in the public interest.

The writ petition is disposed of accordingly.

(B.S. Verma, J.) **(P.C. Verma, J.)**

Rajeev Dang